

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington DC 20554**

In the Matter of	)	
	)	
Closed Captioning of Video Programming	)	CG Docket No. 05-231
	)	
Telecommunications for the Deaf and	)	PRM11CG
Hard of Hearing, Inc.	)	
Petition for Rulemaking	)	

**COMMENTS OF CBS CORPORATION, 21ST CENTURY FOX, INC.,  
TIME WARNER INC., VIACOM INC., THE WALT DISNEY COMPANY,  
AND SCRIPPS NETWORKS INTERACTIVE, INC.**

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April 28, 2014

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To: The Commission

**COMMENTS OF CBS CORPORATION, 21ST CENTURY FOX, INC.,  
TIME WARNER INC., VIACOM INC., THE WALT DISNEY COMPANY,  
AND SCRIPPS NETWORKS INTERACTIVE, INC.**

**Introduction and Summary**

The undersigned companies appreciate the importance of high quality closed captioning to consumers and are committed to engaging with the other entities in the television ecosystem to improve the quality of closed captioning and increase the accessibility of the programming they provide. For these reasons, the undersigned companies urge the Commission to conclude that the present allocation of responsibility for compliance with the television captioning rules, including quality, matches perfectly with achieving these goals. First, the Commission's current approach places compliance obligations on the entities that are necessary to resolve the overwhelming majority—in some cases up to 90%—of captioning problems, and which have direct consumer relationships and customer care centers, and thus are in the best position to address and resolve captioning quality issues: the multichannel video programming distributors ("MVPDs"). Second, holding MVPDs directly responsible for compliance is consistent with longstanding Commission practice and will not disrupt the current working system. The Commission repeatedly has recognized that focusing compliance efforts on MVPDs best serves

the public interest. Third, a decision to alter the current system and impose compliance obligations on programmers for the television closed captioning rules cannot be supported by the record and thus would be arbitrary and capricious. Fourth, and most important, the present allocation of compliance responsibility benefits consumers and serves the public interest by promoting collaboration and encouraging all parties involved in the captioning process, including programmers, to engage in prompt and effective resolution of consumers' captioning issues.

**I. The Commission's Current Allocation of Responsibility for Compliance with the Captioning Quality Rules Is Appropriate.**

In the recent Captioning Quality Order,<sup>1</sup> the Commission appropriately decided to hold MVPDs directly responsible for compliance with the captioning quality rules.<sup>2</sup> This allocation of responsibility promotes the public interest, is consistent with longstanding Commission practice, and places compliance obligations where they can be most effectively and efficiently discharged.

**A. The Current Allocation of Compliance Responsibility Ensures that Captioning Quality Issues Are Addressed by the Entities Which Are Necessary to Resolve the Vast Majority of Captioning Issues and Which Are in the Best Position to Resolve Complaints.**

MVPDs are uniquely suited to address captioning complaints by virtue of their small numbers relative to programmers, their position as the last link and the consumer-facing entity in

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<sup>1</sup> *Closed Captioning of Video Programming*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, CG Docket No. 05-231 (rel. Feb. 24, 2014) ("*Captioning Quality Order*" or "*FNPRM*").

<sup>2</sup> See *Captioning Quality Order* ¶ 53. The undersigned companies acknowledge that the captioning quality rules apply to "video programming distributors," which includes broadcast distributors as well as MVPDs. Some of the undersigned companies own broadcast stations that will continue to actively participate in compliance efforts. However, because much of the evidence cited herein concerns MVPDs specifically, the term "MVPD" is used throughout these Comments in reference to entities responsible for compliance with the television closed captioning rules.

the distribution chain, and their existing complaint-resolution infrastructure. Years of practical experience, Commission precedent, and above all administrative efficiency argue strongly in favor of retaining the present allocation of compliance responsibility. Additionally, in circumstances where there are multiple entities upon which obligations might be imposed, Congress has guided the Commission, as it did in the CALM Act, toward regulation of distributors as the best entities to investigate and address the underlying issue.<sup>3</sup> This important consideration overwhelmingly weighs in favor of imposing obligations on MVPDs here, which are in the best position to resolve captioning quality complaints.

In the experience of the undersigned companies, and as documented in the attached declarations, the overwhelming majority of captioning complaints raise issues that require the involvement of MVPDs for resolution. The attached declarations from the leading content companies describe experiences that are common across the industry. For example, one company reported that approximately 90% of captioning issues identified in complaints are based on problems outside the provider's control, including MVPD equipment errors.<sup>4</sup> As documented in the attached declarations, issues attributable to MVPDs include errors of timing, placement, and other quality issues identified in the Captioning Quality Order.<sup>5</sup> All of the

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<sup>3</sup> See, e.g., Commercial Advertisement Loudness Mitigation Act, 47 U.S.C. § 621 (2012) (requiring the Commission to regulate the volume of commercial advertisements relative to television program material “only insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor”).

<sup>4</sup> See Declaration of Ben Bongiovi ¶ 3.

<sup>5</sup> See *id.*; see also Declaration of John Ajamie ¶¶ 3.c, 3.d (reporting MVPD resolution of consumer complaints that closed captions “had random text and gibberish, making them unreadable” and that closed captions were “garbled and unintelligible”). This evidence directly contradicts Verizon’s assertion that MVPDs have only “limited ability to directly impact the closed captioning quality, other than to effectively pass through the captions supplied by the (continued...)”).

attached declarations state that the vast majority of captioning complaints require distributors to be involved in the resolution of the underlying issues.<sup>6</sup> It would be wasteful in the extreme for the Commission to create a mechanism that pushes complaints to programmers when the vast majority of complaints are either directly attributable to MVPDs or require the involvement of MVPDs for resolution. Because of this significant imbalance, procedural and administrative efficiency counsel in favor of retaining the present allocation of responsibility. The Commission need not be concerned that the small minority of issues that require programmer involvement will go unresolved; as described in Part II below, the current system encourages programmers to cooperate with MVPDs and to assist in resolving issues where programmer involvement is necessary.

It bears emphasis that MVPDs' position as the last link in the distribution chain places them in direct relationships with the consumers affected by captioning issues. These direct consumer relationships, along with MVPDs' small numbers relative to programmers, make MVPDs a natural fit for receiving captioning complaints through existing customer care centers, addressing the underlying issues, and communicating with affected consumers about their concerns. MVPDs have been performing these functions for years and have developed an extensive complaint-resolution infrastructure, including response procedures and customer-care teams. Maintaining the current allocation of compliance responsibility promotes the public interest by ensuring that consumers receive the benefit of this history and existing infrastructure, which MVPDs can leverage to ensure that consumers' captioning quality complaints are resolved

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content provider.” Letter from Ian Dillner, Verizon, to Marlene H. Dortch, CG Docket No. 05-231 (Dec. 13, 2013).

<sup>6</sup> See, e.g., Declaration of Townsend Davis ¶ 6 (reporting that “the vast majority of closed captioning complaints that ABC has received from viewers and from the Commission related to technical problems within MVPD or broadcast distribution systems.”).

promptly and efficiently. Programmers will continue to play a role in this process by providing certifications and, where appropriate, assisting MVPDs as part of ongoing contractual and business relationships.

B. The Current Allocation of Compliance Responsibility is Consistent with Longstanding Commission Practice.

The Commission was first required to allocate responsibility for television closed captioning obligations during its implementation of Section 305 of the Telecommunications Act of 1996.<sup>7</sup> The Commission initially determined that MVPDs “are in the best position to ensure that the programming they distribute is closed captioned because of their role in the purchasing of programming from producers,”<sup>8</sup> and this determination was reinforced by the record created throughout the rulemaking process. Some commenters at the time argued that compliance obligations should be shared between MVPDs and programmers.<sup>9</sup> In its Order establishing the closed captioning rules, the Commission rejected these arguments, explaining that holding MVPDs solely responsible for compliance allows the Commission to “monitor and enforce [the] rules more efficiently” by designating “a single entity to which complaints must be addressed” and obviating the need to track down potentially numerous “entities responsible for producing the programs alleged to violate the rules.”<sup>10</sup>

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<sup>7</sup> Telecommunications Act of 1996, Pub. L. 104-104, § 305, 110 Stat. 56 (1996); see *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Report and Order, 13 FCC Rcd 3272, 3287 ¶ 28 (1997) (“1997 Report and Order”).

<sup>8</sup> *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Notice of Proposed Rulemaking, 12 FCC Rcd 1044, 1061 ¶ 28 (1997).

<sup>9</sup> See *id.* ¶ 27.

<sup>10</sup> *1997 Report and Order*, 13 FCC Rcd at 3286 ¶ 27.

The Further Notice of Proposed Rulemaking (“FNPRM”) notes that the Commission adopted a different approach when it created captioning requirements for video programming delivered over Internet Protocol (“IP”)—placing direct compliance obligations on both distributors and video programming owners (“VPOs”)—and seeks comment on “whether there are similarities or differences between the television and the IP closed captioning contexts . . . that justify similar or different regulatory approaches.”<sup>11</sup> Video programming distribution in the IP context is very different from distribution in the television context. Importantly, in the context of the IP closed captioning rules, it is first necessary to determine whether programming has previously aired on television, an inquiry that VPOs are positioned to help address.<sup>12</sup> This consideration does not exist in the television context. Another unique aspect of IP distribution recognized by the Commission is the frequent participation of numerous programming distributors in a single IP distribution chain.<sup>13</sup> By contrast, in the television context, a smaller number of MVPDs typically provide programming through shorter distribution chains.<sup>14</sup> Thus, the regulatory approach the Commission adopted in the IP context stemmed from the Commission’s recognition of the “fundamental differences between television and IP distribution.”<sup>15</sup>

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<sup>11</sup> FNPRM ¶ 129.

<sup>12</sup> *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787, 802 ¶ 21 (2012) (“We believe that this characteristic of the IP distribution chain helps to justify imposing obligations directly on VPOs in the IP context, whereas the Commission reasonably believed that in the television/MVPD context it could rely on video programming distributors or providers working with program suppliers with whom they have close contractual relationships.”).

<sup>13</sup> *See id.* at 801–02 ¶ 21.

<sup>14</sup> *See id.*

<sup>15</sup> *Id.* at 801 ¶ 21.



In the years since the Commission decided to hold MVPDs solely responsible for television captioning obligations, the circumstances surrounding the distribution of video programming on television have not changed. MVPDs are still easily identifiable to consumers and the Commission; are still in contractual relationships with both programmers and affected consumers; have customer care and complaint-resolution systems; and are still in the best position to respond to captioning complaints. The Commission therefore should adhere to its earlier decision, which established a system that has been administered effectively for more than sixteen years.

C. Imposing Compliance Obligations on Programmers Would Be Arbitrary and Capricious.

The discussion above establishes that MVPDs are in the best position to respond to captioning complaints, and longstanding Commission precedent favors retention of the current allocation of responsibility for compliance with the captioning quality rules. The attached declarations, which are consistent with the undersigned companies' years of experience, further demonstrate that MVPD involvement is necessary to resolve the vast majority of captioning complaints. In the absence of contrary evidence in the record, subjecting programmers to compliance responsibility at this juncture would be an arbitrary and capricious exercise of the Commission's rulemaking power.

The D.C. Circuit has held that "[a]gency action is arbitrary and capricious if the agency offers insufficient reasons for treating similar situations differently."<sup>16</sup> The Commission's justifications for changing course must be supported not only by adequate reasoning, but by the facts established in the record; Commission action will be held invalid if it has not "examine[d]

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<sup>16</sup> *Muwekma Ohlone Tribe v. Salazar*, 708 F.3d 209, 216 (D.C. Cir. 2013) (internal quotation marks omitted).

the relevant data and articulate[d] a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”<sup>17</sup>

In this case, the Commission lacks a reasoned basis to impose compliance obligations for the captioning quality rules on programmers. Reallocation of compliance responsibility in this manner would be a fundamental break from years of Commission precedent establishing that it is in the public interest to hold MVPDs solely responsible for the television closed captioning rules. The nature of the MVPD ecosystem has *not* been altered in the past few years, and there are no facts in the record contradicting the Commission’s prior conclusions on this issue. Moreover, proponents of reallocation have not presented any evidence demonstrating that the current system is not working adequately, nor have they presented evidence that the current system would be insufficient to address captioning quality issues. In fact, the evidence presented herein demonstrates just the opposite: that the overwhelming majority of captioning issues require the involvement of MVPDs (including quality issues of the type identified in the Captioning Quality Order) and that MVPDs are in the best position to resolve these issues.<sup>18</sup>

Notably, the Commission itself maintains a database of closed captioning complaints and efforts to resolve those complaints. Before the Commission would reallocate any compliance responsibility, the Commission should first examine its database and identify in the record the type of entities responsible for the issues raised in those complaints. Proponents of reallocation

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<sup>17</sup> *Kristin Brooks Hope Ctr. v. FCC*, 626 F.3d 586, 588 (D.C. Cir. 2010) (alterations in original) (internal quotation marks omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

<sup>18</sup> Consumers filing in this proceeding already have identified a number of quality issues attributable to MVPDs. *See, e.g.*, Comments of Julian Karpoff, CG Docket No. 05-231 (Feb. 11, 2014) (describing how “placement of captions is far different” for identical programming viewed on televisions of the same brand but carried by different cable providers, “with the RCN captions being smack in the middle of the batter’s face, or in the middle of pitching or fielding action” during televised baseball games).

must meet their burden to produce evidence that the current system is insufficient to address captioning quality issues before any obligations can be imposed on programmers. Without such evidence, a decision to change course and impose compliance obligations on programmers for television closed captioning issues would not be supported by the record and thus would be invalid.

D. Compliance Responsibility Also Must Remain with MVPDs in Circumstances Where Linear Programming Is Repurposed for Use on Other Devices.

In terms of captioning quality assessment, a related issue bears mention. In recent years, it has become more common for MVPDs to repurpose linear programming provided by programmers for use on non-traditional devices within the home (such as iPads) as additional outlets for traditional video service. This distribution of content is distinct from other types of IP distribution, such as broad content distribution over the Internet via an app or similar web page. In those instances, the undersigned companies are typically more directly involved in any formatting for such content distribution. By contrast, the repurposing of linear programming by MVPDs for in-home distribution to non-traditional devices may involve significant reformatting and signal processing where programmers are not involved. To the extent that MVPDs are repurposing programming for use on non-traditional devices in this manner, the obligation to ensure captioning quality on such devices must remain with MVPDs. Significantly, programmers are not directly involved in deciding the specific occasions and devices through which MVPDs will make such programming available to their subscribers, and thus have no ability to adjust the presentation accordingly. Captioning on these devices can present significant challenges, as the undersigned companies know from building their own apps for IP distribution. But because the MVPDs have direct control over how and when this linear content

appears on other devices for in-home distribution, the MVPDs also should have sole responsibility for resolving any complaints.

## **II. Comcast's Proposal Would Discourage Efficiency and Collaboration Among Entities Involved in Providing Closed Captioning.**

While the Commission's present allocation of responsibilities promotes a cooperative and efficient environment among entities involved with closed captioning, the proposal submitted by Comcast/NBCUniversal ("Comcast")<sup>19</sup> would have the opposite effect. Comcast's proposal would discourage collaboration and would harm the public interest by prioritizing blame-shifting over solving a consumer's captioning problem.

It is important to understand that video programmers have been participating and will continue to participate in the process of providing high quality closed captioning. For example, programmers worked with the Commission, captioning vendors, consumers, the National Cable and Telecommunications Association, and the National Association of Broadcasters to develop the Video Programmer Best Practices adopted in the Captioning Quality Order. The new rules require MVPDs to request certifications from programmers that programmers either: (1) comply with the new captioning quality standards, (2) adhere to the Video Programmer Best Practices, or (3) are exempt from the closed captioning rules.<sup>20</sup> Requiring MVPDs to request such certifications from programmers thus will have the direct and intended effect of confirming that programmers have appropriate procedures in place to ensure delivery of high quality closed captioning.

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<sup>19</sup> Letter from Jordan Goldstein, Comcast Corp., to Marlene H. Dortch, CG Docket No. 05-231 (Jan. 28, 2014).

<sup>20</sup> *Captioning Quality Order* ¶ 54.

The approach adopted in the Captioning Quality Order—requiring MVPDs to request certifications from programmers and incorporating best practices for captioners and captioning vendors into the Video Programmer Best Practices—encourages collaboration among all entities within the distribution chain. For example, the new rules allow programmers to certify to MVPDs that they adhere to the Video Programmer Best Practices, which, in turn, require programmers to ensure that captioning vendors and individual captioners are following best practices tailored to their own critical roles in the captioning process.<sup>21</sup> Under this approach, captioners, captioning vendors, program networks, and the consumer-facing distributors all must work together through their contractual relationships to ensure that closed captioning reaches consumers at a high quality level.

Comcast’s proposal, by contrast, would have a chilling effect on collaboration, would create harmful incentives for MVPDs, and ultimately would not benefit consumers. In an environment where multiple parties in the distribution chain are subject to direct regulatory oversight, each party’s focus shifts toward risk minimization. This is especially true with respect to Comcast’s proposal, which would permit an MVPD to shift the burden of compliance to the programmer based on the results of the MVPD’s own investigation into the source of the particular captioning issue.<sup>22</sup> This would create harmful incentives for MVPDs to engage in only cursory investigations of difficult issues and to shift responsibility for complaints for which they are responsible and better prepared to resolve. Moreover, it is reasonable to expect that the programmer would not always agree with the MVPD’s assessment, and so a debate would begin

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<sup>21</sup> See *id.* ¶¶ 54, 60.

<sup>22</sup> See *FNPRM* ¶ 126 (noting that “under the Comcast proposal, a VPD would be relieved of any liabilities associated with captioning problems once it determined that the problems raised are within the control of the VPO”).

over which party is responsible for the issue. The resulting delay in responding to the consumer's issue would be exacerbated by the necessity for the Commission to resolve disputes over the results of MVPDs' investigations. This delay would be especially frustrating for affected consumers, who are in direct relationships with MVPDs and accustomed to resolution of captioning issues through MVPDs' existing complaint-resolution infrastructure. These severe public interest harms weigh in favor of maintaining the current allocation of compliance responsibility.

The Commission could seek to mitigate some of the negative effects of Comcast's proposal by requiring MVPDs to certify to the FCC that they have engaged in necessary and appropriate due diligence to identify the source of the captioning quality issue and resolve aspects of the issue within their control *before* ascribing any responsibility to programmers. The Commission has adopted certification requirements for several of its closed captioning rules,<sup>23</sup> and a similar requirement would be necessary to reduce inefficient blame-shifting here. An MVPD certification requirement as described also would align incentives for MVPDs to investigate issues thoroughly and consider potential solutions to address consumer issues as quickly as possible and would promote collaboration among all parties in the distribution chain. It is doubtful that this approach would be sufficient to mitigate the public interest harms that would result from adoption of Comcast's proposal, however, given that MVPDs are better positioned overall to respond to captioning complaints.

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<sup>23</sup> See, e.g., *1997 Report and Order*, 13 FCC Rcd at 3287 ¶ 28 (allowing programming distributors to demonstrate compliance with captioning rules "by relying on certifications from program sources"); *Captioning Quality Order* ¶ 54 (requiring programming distributors to request captioning quality certifications from programmers).

## Conclusion

The present allocation of responsibility for compliance with the captioning quality rules—under which MVPDs are held directly responsible for compliance—is consistent with longstanding Commission practice, congressional guidance in similar circumstances, practical experience, and the promotion of procedural and administrative efficiency. In contrast to Comcast’s proposal, which would discourage collaboration and prompt resolution of quality issues, the present allocation promotes the public interest by incentivizing collaboration among the entities involved in providing closed captioning and prompt and effective resolution of consumer complaints. Moreover, given the absence of evidence in the record demonstrating that reallocation of compliance responsibility is appropriate, reallocation at this juncture would be arbitrary and capricious. For these reasons, the Commission should reject Comcast’s proposal and maintain the present allocation of compliance responsibility.

Respectfully submitted,

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April 28, 2014



**Declaration of Ben Bongiovi**

I, Ben Bongiovi, hereby declare under penalty of perjury that:

1. I am Senior Director, Media Coordination at Viacom Inc.
2. In my capacity as Senior Director, Media Coordination, I review complaints received from the Federal Communications Commission, multichannel video programming distributors, and viewers concerning issues with closed captioning accompanying Viacom's programming.
3. Since January 2013, approximately 90% of the complaints I have reviewed concern captioning issues that were not in the control of Viacom, such as timing and placement issues resulting from the improper functioning of programming distributors' closed captioning equipment.
4. My observations regarding closed captioning complaints reviewed over this time period are generally consistent with my experiences in the prior year.
5. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.

  
Ben Bongiovi

**Declaration of Kenneth Gordon**

I, Kenneth Gordon, hereby declare under penalty of perjury that:

1. I am Principal Counsel in the Legal Department at ESPN, Inc., which is a subsidiary of the Walt Disney Company.
2. Among the responsibilities of the Legal Department are compliance of television programs produced and distributed by ESPN as it relates to the regulations of the Federal Communications Commission (the "Commission"), including those governing closed captioning.
3. In my capacity as Principal Counsel, I review and assist in responding to certain complaints received from the Commission, multichannel video programming distributors ("MVPDs"), and viewers concerning issues with closed captioning accompanying programming produced and distributed by ESPN. I have engaged in review of such complaints since 2005.
4. Over the last twelve (12) months, I have reviewed six (6) Notices of Informal Complaint ("NOICs") that were sent by the Commission to ESPN that concerned a viewer complaint about telecast or online display of closed captions. In each instance, I participated in the investigation of the complaint and the formulation of the response to the Commission and the viewer.
5. Upon investigation of each complaint, closed captions were present in the program in virtually all cases when the program required captions under the Commission's rules. To the extent ESPN could determine the existence and source of any closed captioning problem, it was found to derive from an equipment problem originating with the telecast transmission, the MVPD or the viewer.
6. In my experience reviewing closed captioning complaints made to ESPN over the last 9 years, caption problems rarely originate with the video program owner, and when they do, they are usually noticed and corrected by the video program owner before a complaint is received. Upon investigation, the vast majority of closed captioning complaints that ESPN has received from viewers and from the Commission related to technical problems within MVPD distribution systems.
7. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.

  
Kenneth Gordon

### Declaration of John Ajamie

I, John Ajamie, hereby declare under penalty of perjury that:

1. I am Senior Vice President, Broadcast Operations and Engineering at Scripps Networks Interactive, LLC.
2. In my capacity as Senior Vice President, Broadcast Operations and Engineering, I review complaints concerning issues with closed captioning accompanying Scripps Networks Interactive's programming.
3. Over the last 12 months, of the approximately two dozen complaints across the standard and high definition feeds of six networks, I have reviewed concerning captioning issues, the vast majority require the direct involvement of video program distributors to resolve. The examples below are typical of our experiences.
  - a. In June of 2013, our Customer Service group received a message from a DIY viewer that closed captions were not present. We contacted the headend that served the customer. After they rebooted the satellite receiver, the captions returned for DIY.
  - b. In June of 2013, we were contacted by a cable customer, complaining that captions were not working on Food Network. We worked with the customer over the course of several months. The cable company told the viewer that their equipment was working properly and he needed to contact the programmer, and to stop calling them. We were eventually able to get the cable company technicians to follow up on this issue and the captions started working in late August.
  - c. In July of 2013, a satellite customer filed a complaint with us that closed captions on HGTV had random text and gibberish, making them unreadable. A technician had visited their house but said nothing more could be done. We posted a message to the satellite company's maintenance bulletin board and the problem was fixed.
  - d. In late September and early October of 2013, we received a large number of complaints that the closed captioning was garbled and unintelligible for satellite subscribers. After we contacted the satellite company, the issue cleared up and several of the viewers let us know that the captions were working properly.
  - e. In January of 2014, an HGTV viewer contacted us to find out why closed captions were no longer available. It turned out to be the cable coming to

her house that caused a problem. Once replaced by the cable company, closed captions returned.

4. My observations regarding closed captioning complaints reviewed over the last 12 months are generally consistent with my experiences in previous years.
5. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.

Scripps Networks Interactive, LLC

By: \_\_\_\_\_

Name: John Ajamie

Title: SVP, Broadcast Operations & Engineering



### Declaration of Karen Holm

I, Karen Holm, hereby declare under penalty of perjury that:

1. I am Assistant Chief Counsel in the Legal Affairs Department at ABC Cable Networks Group, and International Family Entertainment, Inc., each of which is a subsidiary of the Walt Disney Company.
2. Among the responsibilities of the Legal Affairs Department are compliance of television programs exhibited on and distributed by the cable networks currently known as ABC Family, Disney Channel, Disney XD, and Disney Junior (the "Networks") with regulations of the Federal Communications Commission, including those governing closed captioning.
3. In my capacity as Assistant Chief Counsel, I review and assist in responding to certain complaints received from the Federal Communications Commission, multichannel video programming distributors ("MVPDs"), and viewers concerning issues with closed captioning accompanying programming exhibited on and distributed by the Networks.
4. Over the last two years, I have reviewed four Notices of Informal Complaint ("NOICs") that were sent by the Commission either to an MVPD, copying a Network, or to an MVPD and a Network jointly, that concerned a viewer complaint about telecast closed captions in a Network branded program or programs. In each instance, I participated in the investigation of the complaint and the formulation of the response to the Commission and the viewer.
5. Upon investigation of each complaint, closed captions were present in the program. To the extent the Network could determine the existence and source of any closed captioning problem, it was found to derive from an equipment problem that originated with the telecast transmission, the MVPD or the viewer.
6. In my experience reviewing closed captioning complaints made to, or involving the Networks over the last 3 years, caption problems rarely originate with the video program itself, and when they do, they are usually noticed and corrected by the video program owner before a complaint is received. Upon investigation, the vast majority of closed captioning complaints that the Networks have received from viewers and from the Commission related to technical problems within MVPD distribution systems.
7. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 25, 2014.

  
\_\_\_\_\_  
Karen Holm

Declaration of Mark Turits

I, Mark Turits, hereby declare under penalty of perjury that:

1. I am Vice President, Captioning and Video Description, CBS Television Network.
2. In my capacity overseeing captioning for the CBS Television Network, I review complaints received from the Federal Communications Commission, multichannel video programming distributors ("MVPDs"), and viewers concerning issues with closed captioning accompanying CBS Network programming.
3. While I have not retained records of all the informal captioning complaints regarding CBS Network programming that I have seen over the past five years, I can state with confidence that the overwhelming percentage of such complaints have occurred downstream of CBS. In other words, in the vast majority of cases, I have been able to ascertain that the CBS Network signal has left the CBS Broadcast Center with captions intact, and that the problems identified – *e.g.*, problems with garbled captions, timing and placement issues – have been introduced downstream from CBS.
4. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.



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Mark Turits

Vice President, Captioning and Video Description

CBS Television Network



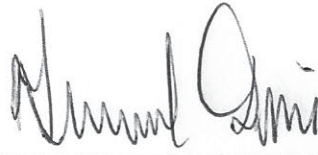
### Declaration of Townsend Davis

I, Townsend Davis, hereby declare under penalty of perjury that:

1. I am Assistant Chief Counsel in the Law and Regulation Department at ABC, Inc., which is a subsidiary of the Walt Disney Company.
2. Among the responsibilities of the Law and Regulation Department are compliance of television programs produced by the ABC Television Network and distributed through its owned and affiliated stations and other distribution platforms and television programs produced and distributed by ABC-owned television stations in eight markets ("ABC-Owned Stations") with regulations of the Federal Communications Commission, including those governing closed captioning.
3. In my capacity as Assistant Chief Counsel, I review and assist in responding to certain complaints received from the Federal Communications Commission, multichannel video programming distributors ("MVPDs"), and viewers concerning issues with closed captioning accompanying programming produced and distributed by the ABC Television Network and the ABC-Owned Stations. I have engaged in review of such complaints since 2004.
4. Over the last 24 months, I have reviewed three Notices of Informal Complaint ("NOICs") that were sent by the Commission to an ABC-Owned Station that concerned a viewer complaint about broadcast closed captions. In each instance, I participated in the investigation of the complaint and the formulation of the response to the Commission and the viewer.
5. Upon investigation of each complaint, closed captions that accompanied the program did not reach the viewer because of an equipment problem that originated with either the broadcast transmission or with the MVPD's distribution of the program.
6. In my experience reviewing closed captioning complaints made to ABC over the last 10 years, caption problems rarely originate with the video program itself, and when they do, they are usually noticed and corrected by the video program owner before a complaint is received. Upon investigation, the vast majority of closed captioning complaints that ABC has received from viewers and from the Commission related to technical problems within MVPD or broadcast distribution systems.

7. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 27, 2014.

A handwritten signature in dark ink, appearing to read "Townsend Davis", written over a horizontal line.

TOWNSEND DAVIS



**Declaration of Michelle Hylton**

I, Michelle Hylton, hereby declare under penalty of perjury that:

1. I am Senior Counsel at Turner Broadcasting System, Inc. ("Turner").
2. In my role, I review and coordinate responses to complaints received from the Federal Communications Commission, whether directly or indirectly through multichannel video programming distributors ("MVPDs"), concerning issues with closed captioning accompanying Turner's programming.
3. Other than inquiries specific to exempt programming, for all FCC complaints received over the last 12 months, we have confirmed no captioning issues with our programming feeds and thus believe that any resulting consumer issues were the result of either operator transmission or end user equipment problems.
4. To the best of my knowledge, the relevant MVPDs have addressed resolution of the consumer issues, and filed any responses to the underlying complaints.
5. My observations regarding closed captioning complaints reviewed over the last 12 months are generally consistent with my experiences in previous years.
6. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.

  
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Michelle Hylton

**Declaration of Rachel Miller**

I, Rachel Miller, hereby declare under penalty of perjury that:

1. I am Vice President, Legal Affairs, Technology at Home Box Office, Inc. ("HBO").
2. In my role, I review and coordinate responses to complaints received from the Federal Communications Commission, whether directly or indirectly through multichannel video programming distributors ("MVPDs"), concerning issues with closed captioning accompanying HBO's programming.
3. For all FCC complaints received by HBO over the last 12 months, we have confirmed no captioning issues with our programming feeds and thus believe that any resulting consumer issues were the result of either operator transmission or end user equipment problems.
4. To the best of my knowledge, the relevant MVPDs have addressed resolution of the consumer issues, and filed any responses to the underlying complaints.
5. My observations regarding closed captioning complaints reviewed over the last 12 months are generally consistent with my experiences in previous years.
6. The facts contained in this Declaration are true and correct, to the best of my knowledge, information, and belief.

Executed on April 28, 2014.



Rachel Miller